

Message Text

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ACTION L-03

INFO OCT-01 IO-14 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-10

NSAE-00 NSC-10 PA-04 RSC-01 PRS-01 SPC-03 SS-20

USIA-15 ACDA-19 AF-10 ARA-16 EA-11 EUR-25 NEA-10

DRC-01 /184 W

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R 210409Z NOV 73

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TO SECSTATE WASHDC 1325

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E.O. 11652: N/A

TAGS: UNGA, ICJ, PINS

SUBJ: UNGA -- LEGAL COMMITTEE - ICJ ITEM AND TERRORISM ITEM

1. SUMMARY: GONZALEZ-GALVEZ (CHAIRMAN) TO CHAIRMEN OF REGIONAL GROUPS THAT IN VIEW OF LACK OF TIME ITEMS ON ICJ AND ON TERRORISM MIGHT BE POSTPONED. THIS SUGGESTION WAS CONSIDERED AT WEO GROUP MEETING EVENING NOV 20. AT SEPARATE AND SIMULTANEOUS MEETING OF COSPONSORS OF A/C.6/L.887 (1972) CONVENED BY NETHERLANDS, OPTIONS ON ICJ ITEM WERE CONSIDERED. INSTRUCTIONS REQUESTED ON ICJ ITEM BY OPENING OF BUSINESS NOV. 23. END SUMMARY.

2. AT WEO GROUP MEETING, UK SAID GONZALEZ-GALVEZ HAD SUGGESTED A SIMPLE RES WITHOUT DISCUSSION DEFERRING TERRORISM ITEM. ON THE ICJ ITEM, HE HAD RAISED POSSIBILITY OF POSTPONEMENT SINE DIE, OF CONVERTING ITEM INTO DIFFERENT ITEM, OR OF SIMPLE POSTPONEMENT.

3. US REP OPPOSED POSTPONING TERRORISM ITEM AND SUGGESTED NO DECISION SHOULD BE MADE ON THIS AT LEAST UNTIL WE SEE RESULTS ON CONVENTION ON PROTECTION OF DIPLOMATS. US OPPOSED TERMINATION OF ICJ ITEM, AFTER POSTPONEMENT WITHOUT ACTION
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AT LAST GA, AND THOUGHT ITEM SHOULD BE GIVEN SOME CONSIDERATION

BY 6TH COMITE. CANADA THOUGHT ICJ ITEM HAD CEASED TO BE USEFUL AND TERMINATION HAD ITS POINTS; HOWEVER, HE AGREED IT PREMATURE TO GIVE ANSWER ON TERRORISM ITEM NOW. UK NOTED TERRORISM WAS NEXT ITEM AND CHAIR ENTITLED TO ANSWER. IRELAND SAID THIS HAD BEEN FRUITLESS SESSION AND THERE NO ADVANTAGE IN TERRORISM DEBATE. ITALY AGREED WITH US THAT ABANDONNING POSITION ON UNCITRAL, ON TERRORISM, AND ON ICJ NOT GOOD, BUT SAID HE THOUGHT NOTHING WORTHWHILE COULD COME OF TERRORISM ITEM; ON ICJ ITEM, HOWEVER, HE THOUGHT EVEN JUST HAVING DEBATE USEFUL AND THOUGHT COULD BE GIVEN TO EXPANDING ITEM TO INCLUDE OTHER ASPECTS OF JUDICIAL SETTLEMENT OF DISPUTES. GREECE COULD ACCEPT POSTPONEMENT OF BOTH TERRORISM AND ICJ ITEMS, BUT PREFERRED LATTER NOT BE CUT OFF FOR GOOD. NETHERLANDS READY TO POSTPONE TERRORISM ITEM AND READY TO BURY IDEA OF AD HOC COMITE UNDER ICJ ITEM. UK (WEO GROUP CHAIRMAN) WILL AS RESULT OF THIS DISCUSSION ASK GONZALEZ-GALVEZ FOR MORE TIME BEFORE DECISION TAKEN ON POSTPONEMENT OF THESE TWO ITEMS. DEPT VIEWS ON POSSIBLE POSTPONEMENT OF TERRORISM ITEM REQUESTED.

4. NETHERLANDS CONVENED SEPARATE MEETING OF CONSPONSORS OF A/C.6/L.887 (1972) AT SAME TIME AS WEO MEETING. PRESENT WERE NETHERLANDS, FINLAND, JAPAN, GHANA, VENEZUELA, ARGENTINA, US, CANADA, GREECE AND CYPRUS. ABSENT WERE GUATEMALA, LIBERIA, NEW ZEALAND AND TURKEY (LATTER TWO DELS HAD ONLY ONE REP COVERING WEO MTG). NETHERLANDS CIRCULATED DRAFT RES TO MEMBERS OF GROUP, TRANSMITTED PARA 9 BELOW.

5. ALTING (NETHERLANDS) SAID THAT, WHEN GONZALEZ-GALVEZ INFORMED HIM OF IDEA OF KILLING OFF ICJ ITEM FOR GOOD WITHOUT DISCUSSION, NETHERLANDS DECIDED TO TRY TO PREEMPT THIS BY PREPARING DRAFT RESOLUTION FOR IMMEDIATE SUBMISSION. HE SAID IT CLEAR CREATION OF AD HOC COMITE DID NOT COMMAND SUPPORT AND THUS HIS DEL NOW READ TO DROP IDEA. AS BETWEEN OPTION OF STRONG RES AND WEAK ONE, HE CHOSE TO PUT FORWARD WEAK ONE WHICH MIGHT COMMAND CONSENSUS AND PROVOKE LITTLE DISCUSSION.

6. FINLAND SAID NORDIC STATES SEEM UNANIMOUS ON DROPPING ITEM AND THAT NETHERLAND'S DRAFT WAS BASICALLY LIMITED OFFICIAL USE

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ACCEPTABLE. GREECE SAID HE WOULD RECEIVE INSTRUCTIONS BY NOV 21. US ARGUED AGAINST POSTPONEMENT OF ITEM OR KILLING ITEM FOR GOOD, SUGGESTED THAT IN VIEW OF REVISION OF RULES WE COULD DROP INSISTANCE ON AD HOC COMITE, BUT THOUGHT ANY RESOLUTION COSPONSORS SUBMITTED SHOULD BE STRONGER THAN THAT PROPOSED BY NETHERLANDS. GHANA ALSO AGAINST KILLING ITEM, BUT THOUGHT IT MIGHT BE POSTPONED TO NEXT GA ON CONDITION IT GIVEN PRIORITY THEM. HE ALSO SUGGESTED

THAT FOCUS OF ITEM MIGHT BE CHANGED, E.G., TO CONSIDERATION OF A REPORT BY ICJ TO GA IN LEGAL COMITE AT PERIODIC INTERVALS. JAPAN ALSO AGAINST KILLING ITEM BUT THOUGHT ONE YEAR POSTPONEMENT ACCEPTABLE. JAPAN AND FINLAND POINTED OUT THAT LEGAL COMITE AGENDA MIGHT BE LESS FULL NEXT YEAR WITHOUT ITEM ON PROTECTION OF DIPLOMATS, WITHOUT PRESCRIPTION ITEM, AND WITH IO/STATES RELATIONS ITEM MERELY PROCEDURAL. US NOTED THAT IF AGGRESSION DEFINITION FINISHED THIS WOULD TAKE UP MUCH TIME.

7. COSPONSORS GROUP AGREED THAT ALTING SHOULD TELL GONZALEZ-GALVEZ FOLLOWING:

(A) ISSUE OF POSTPONEMENT OF ICJ ITEM SHOULD NOT BE BROUGHT UP IN LEGAL COMITE BEFORE NOV 23 AT EARLIEST;

(B) GROUP STRONGLY OPPOSED POSTPONEMENT SINE DIE; AND

(C) GROUP CONSIDERING TWO POSSIBLE COURSES OF ACTION:

(1) A SHORT SUBSTANTIVE DEBATE ON ICJ ITEM AND A RESOLUTION WHICH WOULD NOT SEEK TO CREATE AN AD HOC COMITE, BUT WHICH WOULD BE SIGNIFICANTLY STRONGER THAN NETHERLANDS PRPOSAL, OR

(2) AGREEING TO POSTPONEMENT OF ICJ ITEM TO NEXT GA ON CONDITION THAT IT GETS PRIORITY AT NEXT GA.

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8. NEXT MEETING OF ICJ COSPONSORS GROUP IS SET FOR A.M. OF NOV. 23. WE REQUEST DEPT VIEWS ON WHETHER OPTION (1) OR (2) IS MOST DESIRABLE. IN ADDITION, WE REQUEST, IN CASE OPTION (1) IS SELECTED BY GROUP, DEPT'S SUGGESTIONS FOR STRENGTHENING DUTCH DRAFT; ALTING HAS REQUESTED THAT ANY CONCRETE PROPOSALS BE MADE AT MEETING NOV 23. COMMENT: WE TEND TO PREFER OPTION (1), BUT THINK OPTION (2) WOULD BE ACCEPTABLE. WE WOULD THINK DUTCH RESOLUTION COULD BE IMPROVED BY INCLUSION OF PROVISIONS URGING RECOURSE TO ICJ, AFFIRMING THAT RECOURSE TO ICJ IS NOT AN UNFRIENDLY ACT, AND PERHAPS HAVING A STUDY DONE OF NEW RULES BY SECRETARIAT, WHICH COULD BE SUBMITTED TO GA AND CIRCULATED TO UN MEMBERS AND STATUTE PARTIES. WE WELCOME FURTHER IDEAS. END COMMENT.

9. FOLLOWING IS TEXT OF PROPOSED DUTCH RESOLUTION:

FIRST DRAFT

REVIEW OF THE ROLE OF THE INTERNATIONAL COURT OF JUSTICE

THE GENERAL ASSEMBLY,

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RECALLING THAT THE INTERNATIONAL COURT OF JUSTICE IS THE PRINCIPAL JUDICIAL ORGAN OF THE UNITED NATIONS,

RECALLING FURTHER THAT, IN ACCORDANCE WITH ARTICLE 2, PARAGRAPH 3 OF THE CHARTER OF THE UNITED NATIONS, ALL MEMBERS SHALL SETTLE THEIR INTERNATIONAL DISPUTES BY PEACEFUL MEANS IN SUCH A MANNER THAT INTERNATIONAL PEACE AND SECURITY AND JUSTICE ARE NOT ENDANGERED,

EMPHASIZING THAT, IN ACCORDANCE WITH THAT PRINCIPLE, AS ALSO SOLEMNLY PROCLAIMED IN THE DECLARATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS 1), THE JUDICIAL SETTLEMENT IS ONE OF THE MEANS TO WHICH STATES CAN HAVE RECOURSE IN SEEKING A JUST SETTLEMENT OF THEIR DISPUTES,

CONSIDERING THAT IN ACCORDANCE WITH ARTICLE 36, PARAGRAPH 3 OF THE CHARTER OF THE UNITED NATIONS, LEGAL DISPUTES SHOULD AS A GENERAL RULE BE REFERRED BY THE PARTIES TO THE INTERNATIONAL COURT OF JUSTICE IN ACCORDANCE WITH THE PROVISIONS OF THE STATUTE OF THE COURT,

CONSIDERING FURTHER THE AMENDMENTS MADE BY THE INTERNATIONAL COURT OF JUSTICE TO ITS RULES OF COURT,

NOTING THE COMMENTS OF GOVERNMENTS IN RESPONSE TO GENERAL ASSEMBLY RESOLUTIONS 2723 (XXV) OF 15 DECEMBER 1970 AND 2818 (XXVI) OF 15 DECEMBER 1971,

1. REAFFIRMS THAT IT IS IMPORTANT FOR INTERNATIONAL PEACE, SECURITY AND JUSTICE THAT STATES ENDEAVOUR AS A GENERAL RULE TO REFER THEIR LEGAL DISPUTES TO THE INTERNATIONAL COURT OF JUSTICE,

2. WELCOMES THE AMENDMENTS MADE TO THE RULES OF COURT BY THE INTERNATIONAL COURT OF JUSTICE WITH A VIEW TO SIMPLIFYING ITS PROCEDURE AS FAR AS POSSIBLE, MAKING IT MORE FLEXIBLE, AVOIDING DELAYS AND SIMPLIFYING CONTENTIOUS AND ADVISORY PROCEEDING, IN SO FAR AS SUCH IMPROVEMENTS DEPEND UPON THE COURT,
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3. RECOMMENDS THAT STATES SHOULD CAREFULLY STUDY THESE MODIFICATIONS TO THE RULES OF THE COURT SO THAT THEY CAN TAKE ADVANTAGE OF THE NEW POSSIBILITIES THEY OFFER,

4. DRAWS THE ATTENTION OF STATES TO THE POSSIBILITIES OFFERED UNDER ARTICLE 36 OF THE STATUTE OF THE COURT CONCERNING THE COMPULSORY JURISDICTION OF THE COURT,

5. FURTHER REQUESTS THE SECRETARY-GENERAL TO BRING THE PRESENT RESOLUTION TO THE ATTENTION OF THE INTERNATIONAL COURT OF JUSTICE.

1) GENERAL ASSEMBLY RESOLUTION 2625 (XXV)
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